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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,302	09/09/2003	William Shelmon	TTC-13002/08	2137
25006	7590	11/02/2005		
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021				
			EXAMINER	
			LARSON, JUSTIN MATTHEW	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/658,302

Applicant(s)

SHELMON ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/9/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/7/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 1/7/04 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to clearly show how first portion 28 and complementary portion 34 are oriented on the exterior surface of the container receptor portion 28 as described in the specification on page 8 and this deficiency makes it impossible for Examiner to fully understand how the "locking means" of page 8 functions. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not adequately describe the components of the "locking means" on page 8 or how they interact with each other to provide the locking feature.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 3, 4, 7, 8, 9, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The "locking means" of page 8 lacks adequate description that would allow one of ordinary skill in the art to fully understand how the "locking means" functions.

**35 USC § 112, 6<sup>th</sup> Paragraph**

6. Claims 3, 4, 7, 8, and 10 are written in “means plus function” form and since they meet the analysis set forth in MPEP 2181, the Examiner assumes that applicant wishes to invoke 35 USC § 112, paragraph 6.

**Claim Rejections - 35 USC § 102**

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-5 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Dennis et al. (6,834,838). Dennis et al. discloses a collapsible container holder assembly (Figure 11) for use in a vehicle, the container holder comprising: a carrier portion (100') adapted to be selectably mounted within the vehicle (104'), the carrier portion having at least one recess opening formed therein; at least one container receptor portion (108) adapted to telescopically engage and be retained within the at least one opening formed in the carrier portion and wherein the at least one container receptor portion is adjustable between an extended and collapsed position relative to the carrier portion (Figures 1a & 1b) ; at least one retaining member (150 or 154) adapted to engage at least one complementary mounting point at the vehicle (158 or 160); a locking means (132/132P) for locking the at least one container receptor portion in the extended position, wherein the locking means is locked by rotating the at least

one container receptor portion in a first direction while extending and unlocked by rotating the at least one container receptor portion in an opposite direction; at least one retaining arm (118) disposed on an exterior surface of the at least one container receptor portion, the at least one retaining arm operative to prevent the at least one container receptor portion from being pushed out from the carrier portion when the at least one container receptor is moved to the collapsed position

Regarding the locking means of claims 3, 4, 7, 8, and 10, to the best of understanding, Examiner reasons that the locking means basically stops, or locks, the at least one container receptor portion at the limit of its telescoping rotational motion from any further telescoping rotational motion in relation to the recess until a user applies the necessary force to cause the at least one container receptor portion to telescopically rotate back into a collapsed position within the recess. This considered, the recesses (132) of Dennis et al. effectively alert the user that a limit of telescopic travel has been achieved ([0045]) and because protuberances (132P) cause the track (126) to be slightly less in diameter than the boss (118), the boss is held in place, or locked, within recess (132) ([0046]) until the user applies the necessary force to free the boss and telescopically rotate the at least one container receptor, collapsing it back into the recess, therefore acting as an equivalent to the "locking means" of the claims.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dennis et al. in view of Flowerday et al. (6,435,587). Dennis et al. discloses the claimed invention, including the container holder being mounted to a trim component of a vehicle, but fails to specifically disclose a trim member being that of a floor tray.

Flowerday et al., however, discloses a floor console or tray (10) and teaches that additional assemblies are attached to the floor tray, such as a container holding assembly (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the container holder of Dennis et al. could be mounted to the trim of a floor tray, as taught by Flowerday et al., in order to provide the vehicle passengers with a place to store containers.

### ***Conclusion***


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML

  
JES F. PASCUA  
PRIMARY EXAMINER